

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

CGG 18-022004
LOGS Legal Group LLP
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Elizabeth L. Wassall, Esq. 023211995
ATTORNEYS FOR WILMINGTON SAVINGS FUND
SOCIETY, FSB, AS TRUSTEE OF STANWICH
MORTGAGE LOAN TRUST J

In Re:

KEITH R. DEVAN AND CASSANDRA JONES DEVAN,
DEBTORS

Case No.: 18-14904-ABA

Judge: HONORABLE ANDREW B.
ALTENBURG, JR.

Chapter: 13

CREDITOR'S SUPPLEMENTAL OBJECTION TO DEBTORS' MOTION TO
CANCEL AND DISCHARGE MORTGAGE

The undersigned, LOGS Legal Group LLP, attorneys for the Secured Creditor, WILMINGTON SAVINGS FUND SOCIETY, FSB, AS TRUSTEE OF STANWICH MORTGAGE LOAN TRUST J, the holder of a Mortgage on Debtors' property located at 112 N. King Street, Magnolia, NJ 08049, hereby further objects to the Debtors' Motion to Cancel and Discharge Mortgage, ECF# 94, as follows:

- 1) On October 8, 2009, Keith DeVan (hereinafter Debtor) executed a Note, secured by a Mortgage, to secure the sum of \$158,272.00, with a maturity date of November 1, 2039.
- 2) On June 7, 2016, Debtor first filed for Ch. 13 Bankruptcy at Docket 16-21123-ABA, which action was dismissed on April 13, 2017.
- 3) On August 16, 2017, Debtor filed another Ch. 13 Bankruptcy at Docket 17-26610-ABA, which action was dismissed on February 15, 2018.
- 4) On March 14, 2018, Debtor filed the instant Ch. 13 Bankruptcy at Docket 18-14904-ABA.

5) On May 11, 2018, Secured Creditor filed Proof of Claim No. 4, outlining a total debt amount of \$203,521.13 and pre-petition arrears of \$68,159.94 owing on its mortgage lien at the time of bankruptcy filing. The Proof of Claim further outlined that the account is escrowed.

6) On October 23, 2018, a Consent Order resolving objection to confirmation of plan was entered, ECF# 49, for cram-down of Secured Creditor's claim to \$125,000.00 at 5.75% interest, for a total of \$141,841.14 to be disbursed by the Trustee.

7) On July 2, 2019, a Consent Order was entered, ECF# 68, which *vacated* the prior cram-down Consent Order at ECF# 49, *and the Secured Creditor's claim reverted to the original amount(s) listed in the Proof of Claim No. 4 as filed on May 11, 2018.*

8) Payments received by Secured Creditor during the pendency of the bankruptcy were first applied to the \$68,159.94 pre-petition arrearage owed per the Proof of Claim, and then applied to post-petition payments. As of April 18, 2023, the loan is showing due for the October 1, 2022 post-petition payment.

9) On April 26, 2023, Secured Creditor filed an Amended Response to Notice of Final Cure, outlining that total of \$10,681.79 remains outstanding on the mortgage lien as of April 18, 2023 for delinquent post-petition payments and unpaid filed Notice(s) of Postpetition Mortgage Fees, Expenses and Charges.

10) As the account was/is escrowed, the Secured Creditor has paid the escrow expenses (taxes and insurance) on the mortgage lien during the pendency of the bankruptcy, in the total amount of \$33,481.07. A true copy of Escrow Advances is attached hereto as *Exhibit A*.

11) Debtor claims that it was "abundantly clear" that the Debtor's intention was to proceed with the cram-down plan, but the fact that Debtor did not pay the escrows on the account, and instead allowed Secured Creditor to do so, speaks otherwise. As does the fact that

Debtor *withdrew* his Motion filed on January 20, 2022 seeking to vacate the Consent Order that was entered on July 2, 2019.

12) As of April 26, 2023, the amount to pay off and satisfy the mortgage lien, which does not mature until 2039, is *estimated* at \$126,670.81.

13) Debtors' instant Motion to Cancel and Discharge Mortgage is improper and must be denied, as the prior cram-down order was vacated, Secured Creditor has been paying the escrow expenses, and the mortgage lien has not been paid off or satisfied, as outlined above.

WHEREFORE, Secured Creditor, WILMINGTON SAVINGS FUND SOCIETY, FSB, AS TRUSTEE OF STANWICH MORTGAGE LOAN TRUST J, respectfully requests that the Debtors' Motion to Cancel and Discharge Mortgage be Denied.

LOGS LEGAL GROUP LLP

By: /s/Elizabeth L. Wassall
Elizabeth L. Wassall, Esquire

Dated: 4-28-2023

EXHIBIT A

Date	Amount paid		
Unknown	1251.14 Tax	Prior servicer Tax/Ins	19780.62
6/1/2018	860 Ins	CMS Tax/Ins	13700.45
7/30/2018	1326.16 Tax		
10/22/2018	1326.16 Tax		
1/11/2019	1288.65 Tax		
4/9/2019	1288.65 Tax		
6/12/2019	821 Ins		
8/1/2019	1341.89 Tax		
10/7/2019	1341.89 Tax		
1/16/2020	1315.27 Tax		
4/9/2020	1315.27 Tax		
5/28/2020	891 Ins		
7/21/2020	1419.33 Tax		
10/18/2020	1312.85 Tax		
1/14/2021	1340.68 Tax		
4/9/2021	1340.68 Tax		
6/30/2021	\$905.00 Ins		
8/2/2021	\$35.00 Ins		
8/16/2021	\$1,392.71 Tax		
10/27/2021	\$1,392.71 Tax		
1/14/2022	\$1,366.70 Tax		
4/22/2022	\$1,366.69 Tax		
5/20/2022	\$1,695.00 Ins		
8/5/2022	\$1,393.32 Tax		
10/13/2022	\$1,393.31 Tax		
1/17/2023	\$1,380.01 Tax		
4/17/2023	\$1,380.00 Tax		
	33481.07		

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CERTIFICATION OF SERVICE

I, _____ the undersigned

1. ☐ represent the _____ in the above-captioned matter.
☒ am the secretary/paralegal for Kathleen M. Magoon, Esquire and Elizabeth L. Wassall, Esquire, who represents the Secured Creditor in the above-captioned matter.
☐ am the _____ in the above case and am representing myself.
2. On _____, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below:
 - Supplemental Objection to Motion to Cancel and Discharge Mortgage.
3. I hereby certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Signature

Dated: 4/28/2023

/s/ Alice Cruzado

Printed Name

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
Robert H. Johnson Robert H. Johnson, LLC 1818 Old Cuthbert Road Suite 107 Cherry Hill, NJ 08034		<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)
Isabel C. Balboa Chapter 13 Standing Trustee Cherry Tree Corporate Center 535 Route 38 - Suite 580 Cherry Hill, NJ 08002		<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)
Keith R. DeVan and Cassandra Jones DeVan 80 Penfield Lane Sicklerville, NJ 08081		<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)
		<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)

* May account for service by fax or other means as authorized by the court through the issuance of an Order Shortening Time.